

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.  
BENCH AT AURANGABAD.  
Criminal Appellate Jurisdiction.**

**CRIMINAL APPLICATION NO. 894 OF 2014**

CHANDRAKANT UDHDHAVDAS KHATRI.  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER.

**Appearance       =>**

Mr. G.R. Sayed, Advocate h/for Mr. Pawar Pawan, Advocate for the Applicants.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra / Respondent No.1.

Mr. Amol Sawant, Advocate for Respondent No.2.

**CORAM       :       V.M. Deshpande, J.**

**DATE         :       24<sup>th</sup> April, 2015.**

**Per Court :-**

Heard Mr. G.R. Sayed, Advocate h/for Mr. Pawar Pawan, Advocate for the Applicants, Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra / Respondent No.1 and Mr. Amol Sawant, Advocate for Respondent No.2.

[2]         This is an application under Section 439(2) of the Code of Criminal Procedure for cancellation of anticipatory bail granted in favour of Respondent No.2 – Babu @ Vijay Nandlal Bhagat by the learned Additional Sessions Judge, Dhule vide his order dated 10<sup>th</sup> January, 2014 passed in

Criminal Bail Application No.6/2014, by which the learned Judge of the court below ordered that, in the event of arrest, Respondent No.2 shall be released on anticipatory bail on he executing P.R. Bond of Rs. 10,000/- [Rs. Ten Thousand.] with one solvent surety in the like amount, in connection with CR No.300/2013 registered with Police Station, Dhule (City), District – Dhule, for the offences punishable under Section/s 307, 394, 323, 504, 506 read with 34 of the Indian Penal Code.

[3] While granting anticipatory bail in favour of Respondent No.2, he was also directed to co-operate the investigating agency and to attend Police Station when required by the Investigating Officer.

[4] Mr. G.R. Sayyed, learned counsel strenuously urged before this court that, the learned Judge ought not to have granted the anticipatory bail in favour of Respondent No.2.

[5] It appears that role is not attributed to the present Respondent No.2 about actual assault. Role attributed to the present Respondent No.2, during the course of investigation was that he has instigated the co-accused.

[6] In that view of the matter, in my opinion, the learned Judge of the court below has rightly found that Respondent No.2 has made out a case for grant of anticipatory bail, since in these background, custodial presence of present Respondent No.2 was not at all required.

[7] Hence, there is no error in the order passed by the learned Judge of court below. The learned Judge of court below has correctly exercised the discretion in favour of present Respondent No.2. Further there is nothing available on record that present Respondent No.2 has misused the

liberty granted to him and/or he is not co-operating the investigating agency, as directed in the order. Hence, Criminal Application is rejected.

**(V.M. DESHPANDE, J.)**